

**DISTRICT COURT OF THE VIRGIN ISLANDS**

**DIVISION OF ST. CROIX**

**REUBEN DOWLING,**

**Plaintiff,**

**v.**

**UNITED STATES GOVERNMENT,  
VIRGIN ISLANDS GOVERNMENT,  
and ALMORE FREDERICKS,**

**Defendants.**

**2000-CV-0049**

**TO: Lee J. Rohn, Esq.  
Angela Tyson-Floyd, Esq., AUSA  
Richard Schrader, Jr., Esq., AAG**

**ORDER DENYING PLAINTIFF'S MOTION FOR SANCTIONS**

THIS MATTER came before the Court upon Plaintiff's Motion for Sanctions and/or to Re-Open Discovery (Docket No. 348). In it's Order (Docket No. 367), entered July 10, 2008, the Court deferred ruling upon said motion, allowing Defendant Virgin Islands Government to submit a certification regarding its possession of the tapes at issue. Said Defendant filed such certification (*see* Docket No. 368) on July 25, 2008.

Having reviewed the affidavit of Leonardo Carrion and being fully satisfied therein, the Court finds that said Defendant is unable to locate the tapes at issue. The Court cannot order said Defendant to produce or sanction said Defendant for failing to produce evidence

*Dowling v. United States Government*

2000-CV-0049

Order Denying Plaintiff's Motion For Sanctions

Page 2

it cannot find. Because such evidence is unavailable, re-opening discovery is not required.

Consequently, the Court will deny Plaintiff's said motion.

Accordingly, it is hereby **ORDERED** that Plaintiff's Motion for Sanctions and/or to Re-Open Discovery (Docket No. 348) is **DENIED**.

ENTER:

Dated: July 29, 2008

\_\_\_\_\_/s/  
GEORGE W. CANNON, JR.  
U.S. MAGISTRATE JUDGE